JD–(SF)–15–20
Oakland, CA

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
DIVISION OF JUDGES

INTERNATIONAL LONGSHORE AND
WAREHOUSE UNION (PACIFIC CRANE
MAINTENANCE COMPANY, INC.),
Respondent

and Case 32–CB–005932

INTERNATIONAL ASSOCIATION OF
MACHINISTS & AEROSPACE WORKERS,
AFL-CIO, DISTRICT LODGE 190,
LOCAL LODGE 1546, DISTRICT LODGE 160,
Charging Party

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for the General Counsel.
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David A. Rosenfeld, Esq.,
for the Charging Party.

SUPPLEMENTAL DECISION

STATEMENT OF THE CASE

ELEANOR LAWS, Administrative Law Judge. This supplemental proceeding was opened telephonically on November 19, 2019, and tried in Oakland, California on February 3 and 4, 2020. It hopefully marks the end of over a decade of litigation.

In *PCMC/Pacific Crane Maintenance Co*., 359 NLRB 1206 (2013), reaffirmed 362 NLRB 988 (2015), enfd. *Int'l Longshore & Warehouse Union v. NLRB*, 890 F.3d 1100 (D.C. Cir. 2018), the National Labor Relations Board (NLRB or Board) found that the International Longshore and Warehouse Union (ILWU or Respondent) violated sections 8(b)(1)(A) and (2) of the National Labor Relations Act (NLRA or the Act) by accepting assistance and recognition from the Pacific Crane Maintenance Company (PCMC) and the Pacific Maritime Maintenance Company (collectively, the Employer) as the exclusive collective bargaining representative of

the unit employees at a time when the ILWU did not represent an uncoerced majority of unit employees. As detailed below, the Board ordered the ILWU to reimburse any initiation fees, periodic dues, assessments, or any other moneys it had collected from bargaining unit members during the period of unlawful recognition.

A dispute arose regarding the amount of dues the ILWU must remit. A compliance specification and notice of hearing issued on August 5, 2019, and was amended three times, most recently on February 12, 2020.[1] The ILWU timely answered the compliance specification and each amended compliance specification.

The General Counsel contends the Second Amended Compliance Specification (hereinafter, the Compliance Specification) accurately alleges the amounts due under the Board's order. The Respondent asserts that the Compliance Specification is too expansive as to the number of employees and the length of reimbursement periods, and raises a number of affirmative defenses. The International Association of Machinists and Aerospace Workers (IAM or Charging Party) asserts that the Compliance Specification is too restrictive, and argues it should include additional employees. I have carefully considered briefs filed by the General Counsel, the Respondent, and the Charging Party. For the reasons set forth below, I am satisfied that the approach taken by the Compliance Specification in this case is reasonable under the circumstances.

I. BRIEF SUMMARY OF BACKGROUND FACTS

The Pacific Crane Maintenance Company (PCMC), incorporated in 1990, performs marine terminal maintenance and repair (M&R) work at various shipping terminals on the West Coast. PCMC joined the Pacific Maritime Association (PMA), a multiemployer association that has negotiated collective-bargaining agreements with the ILWU on behalf of approximately 70 companies at various ports on the West Coast.

PCMC performed a significant portion of M&R work for Maersk, a shipping company. In 1999, Maersk purchased the Oakland, California, and Tacoma, Washington port operations from shipping company Sealand.[2] As a condition of the sale, Sealand required Maersk to employ its M&R mechanics, and to recognize IAM as the maritime terminal-based longshore and shipping equipment maintenance and repair services mechanics' union. PCMC, however, as a member of the PMA, was bound by a collective bargaining agreement with the ILWU to perform these services. As a workaround, PCMC created a subsidiary, the Pacific Maritime Maintenance Company (PMMC), which recognized the IAM to provide M&R services to Maresk.

IAM and PMMC's most recent collective bargaining agreement covering the noted employees was effective from April 1, 2002 through March 31, 2005. The contract sets forth the following language in Article 1 [Spelling and capitalization as in the original.]:

[1] Because the Compliance Specification was amended after the hearing, I left the record open for the parties to permit the parties to submit additional evidence if desired. I admitted Respondent's Exhibits 20–22 after the hearing, and I closed the record by written order on March 5, 2020.

[2] Maresk also purchased operations at the Long Beach, California, port, but that location is not at issue here.

> Section 2 - WORK JURISDICTION
>
> This agreement shall cover but not be limited to, all following types of work:
>
> Maintenance, Body and Fender Work, Painting, Rebuilding, Dismantling, Assembling, Repairing, Installing, Erecting, Welding and Burning (or grinding processes connected therewith), Inspecting, Diagnosing, Cleansing, Preparing or Conditioning of all units and auxiliaries (includes refrigeration and air conditioning (units) related to passenger card, buses, pickups, motor cycles, tractors, trucks, trailers, cargo containers, generator sets, refrigeration units, dollies, forklifts, shovels, trench digging and excavating equipment) and all work historically being performed under this contract.
>
> This Agreement shall also cover terminal maintenance, lubricating, fueling, washing, cleaning, polishing, steam rack operations, tire repairing, tire service operations, parts and stockroom operations, shop and yard cleanup, stock and parts pick-up and delivery as presently and hereafter being performed by employees represented by the Union.
>
> This Agreement shall apply to all facilities and operations where the Employer does business and has commercial control.
>
> Section 3. EMPLOYEES COVERED: Employees covered by this Agreement shall include, but not be limited to: Mechanics, Apprentices, Painters, Maintenance Employees, Body and Fender Mechanics, Fuelers, Washers, Tiremen, Partsmen and such other employees as may be presently and hereafter represented by the Union.
>
> . . .
>
> Section 6. SINGLE BARGAINING UNIT: The common problems and interests with respect to the basic terms and conditions of employment of the employees covered hereby have resulted in the establishment of this Agreement. Accordingly, the Unions and the Employer covered by this Agreement acknowledge that the employees covered by this Agreement constitute a single employer multi-union collective bargaining unit.

See 359 NLRB at 1223.

In late 2004, Maresk sought to cut costs, and requested bids from PCMC and PMMC for the work at the Oakland and Tacoma ports. PCMC provided the lower bid, which Maresk accepted. PMMC shut down operations and terminated its maintenance and repair employees. On March 31, 2005, PCMC immediately hired most of the former PMMC employees, ceased recognizing IAM, and recognized the ILWU as the employees' exclusive bargaining agent.

The Board described the transition as follows:

> After the unit employees began working for PCMC, they continued to perform essentially the same work, at the same locations, and in the same organizational units as before. The only significant changes in their terms and conditions of employment resulted from the

> application of the PMA–ILWU Agreement and PCMC's "lean staffing" model of operations. Under its lean staffing model, PCMC maintained steady employee complements at each of its terminal operations that were just large enough to perform the M&R work at the terminal during slack periods. It temporarily expanded its work force during periods of heightened workload by transferring mechanics from other terminals and using the ILWU hiring hall. Commencing on March 31, PCMC assigned unit employees nonunit work and nonunit employees unit work, in accordance with its lean staffing model.

359 NLRB at 1208 (footnote omitted.) The D.C. Circuit, in enforcing the Board's order, described the "lean staffing model" as follows:

> A single CBA, the Pacific Coast Longshore and Clerks Agreement (PCL&CA) binds ILWU, on one side, and the Pacific Maritime Association (PMA), a collection of approximately 70 maritime employers along the Pacific Coast (including PCMC), on the other. Pursuant to the PCL&CA, ILWU and PMA have established an employment dispatch system that is in effect along the Pacific Coast. The system operates through a series of "halls" that match employees to employers on a flexible basis so that labor can flow to the terminals that need it most.

890 F.3d at 1104–1105. By contrast, when the employees worked at PMMC, they exclusively performed unit work at one of two prescribed terminals—Oakland or Tacoma. By the terms of the PMA–ILWU Agreement, payment of dues was a condition of work.[3] (R. Exhs. 9, 10, 11).[4]

II. PROCEDURAL HISTORY

Following a lengthy trial, Administrative Law Judge Clifford Anderson issued a decision recommending dismissal of the allegations relevant here on February 12, 2009. The Board reversed the administrative law judge in *PCMC/Pacific Crane Maintenance Co*., 359 NLRB 1206 (2013), reaffirmed 362 NLRB 988 (2015), enfd. *Int'l Longshore & Warehouse Union v. NLRB*, 890 F.3d 1100 (D.C. Cir. 2018), finding, *inter alia*, found that ILWU violated sections

[3] As the Court observed:

> It is undisputed that the PCMC–ILWU CBA contains a "union-security" clause that requires membership in ILWU as a condition of PCMC employment, JA 665, and that PCMC enforced the clause when it hired the former PMMC mechanics, see PCMC/PMMC I, 359 NLRB at 1207; see also JA 908 (PCMC employment offer letter). Because the Board correctly determined that IAM—not ILWU—was the proper union representative of the M&R employees at the Oakland and Tacoma terminals, it also correctly concluded that ILWU had violated section 8(b)(2) by applying its CBA—including the "union-security" clause—to those employees. *PCMC/PMMC I*, 359 NLRB at 1207; see *Local Lodge No.* 1424 v. NLRB, 362 U.S. 411, 413–14, 80 S.Ct. 822, 4 L.Ed.2d 832 (1960).

890 F 3d at fn. 12.

[4] Abbreviations used in this decision are as follows: "Tr" for transcript; "GC Exh." for the General Counsel's exhibit; "R Exh." for the Respondent's exhibit; "GC Br." for the General Counsel's brief, "R Br." for the Respondent's brief. Although I have included several citations to the record to highlight particular testimony or exhibits, I emphasize that my findings and conclusions are based not solely on the evidence specifically cited but rather are based on my review and consideration of the entire record.

8(b)(1)(A) and (2) of the Act by accepting assistance and recognition from the Employer as the exclusive collective bargaining representative of the unit employees at a time when ILWU did not represent an uncoerced majority of unit employees.[5]

The ILWU was ordered to:

> Cease and desist from
>
> (a) Accepting assistance and recognition from Respondent Pacific Crane Maintenance Company, Inc. or its successor Pacific Crane Maintenance Company, LP (collectively PCMC) as the exclusive collective-bargaining representative of the employees in the unit described below (the unit) at a time when the Respondent Union did not represent an uncoerced majority of the employees in the unit, and when the Machinists District Lodge 190, Local Lodge 1546, and Machinists District Lodge 160, affiliated with International Association of Machinists and Aerospace Workers, AFL–CIO (collectively the Machinists) was the exclusive collective-bargaining representative of the employees in that unit:
>
> > All employees performing work described in and covered by "Article 1, Section 2. Work Jurisdiction" of the April 1, 2002 through March 31, 2005 collective-bargaining agreement between the [Machinists and Pacific Marine Maintenance Company, LLC (PMMC)] . . .; excluding all other employees, guards, and supervisors as defined in the Act.
>
> (b) Maintaining and enforcing the PMA–ILWU Agreement, or any extension, renewal, or modification thereof, including its union-security provisions, so as to cover the unit employees, unless and until it has been certified by the Board as the collective-bargaining representative of those employees.

The Board's order states, in relevant part:

> [T]he Respondent Employer and the Respondent Union will be ordered jointly and severally to reimburse all present and former unit employees who joined the Respondent Union on or since March 31, 2005, for any initiation fees, periodic dues, assessments, or any other moneys they may have paid or that may have been withheld from their pay pursuant to the PMA–ILWU Agreement, together with interest as prescribed in *New Horizons*, supra, compounded daily as prescribed in *Kentucky River Medical Center*, supra.

362 NLRB at 989.[6]

As to the Employer, PCMC/PMMC as a single employer was found to have violated Section 8(a)(5) and (1) of the Act, including by:

[5] As can be gleaned from the citation, this case has a convoluted procedural history, in part because the first Board decision was rendered invalid by *NLRB v. Noel Canning*, 573 U.S. 513 (2014).

[6] The D.C. Circuit's July 24, 2018, mandate enforces the Board's order in full.

- Withdrawing recognition from the Machinists as the exclusive collective-bargaining representative of the unit employees and refusing to bargain with them.

- Applying the terms and conditions of employment of the collective-bargaining agreement between the Respondent Employer and the ILWU (the PMA-ILWU Agreement), including its union-security provisions, to the unit employees at a time when the ILWU did not represent an unassisted and uncoerced majority of the employees in the unit, and when the Machinists was the exclusive collective-bargaining representative of the unit employees

- Notifying the Machinists and the unit employees that the unit employees would be laid off and that they could continue performing unit work only if they were hired as employees of Pacific Crane Maintenance Company, Inc. (PCMC) and were represented by the ILWU.

- Bypassing the Machinists and directly offering unit employees continued employment in the unit on the basis of terms and conditions of employment different from those set forth in PMMC's 2002–2005 collective-bargaining agreement with the Machinists (the Machinists Agreement) and on condition that they be represented by the ILWU;

- Laying off unit employees without first notifying the Machinists and giving it a meaningful opportunity to bargain regarding the decision to lay off unit employees;

- Altering the unit employees' terms and conditions of employment without first notifying the Machinists and bargaining to agreement or impasse regarding such changes in the wages, hours, and working conditions of the unit employees.

- Assigning unit employees to nonunit positions and locations or assigning nonunit employees to perform unit work, without first notifying the Machinists and giving it a meaningful opportunity to bargain about such assignments and the effects of such assignments.[7]

The Board further determined the Employer violated Section 8(a)(2) and (1) of the Act by:

- Granting assistance to International Longshore and Warehouse Union (ILWU or the Respondent Union) and recognizing it as the exclusive collective-bargaining representative of the unit employees at a time when the ILWU did not represent an unassisted and uncoerced majority of the employees in the unit, and when the Machinists was the exclusive collective-bargaining representative of the unit employees.

362 NLRB at 991.

[7] An additional violation was found but is not relevant here.

The Employer settled its claims, and paid $130,000 to each of the approximately 100 unit employees formerly represented by IAM at the Oakland and Tacoma terminals. The IAM is therefore the only Respondent for purposes of this decision.

III. GENERAL LEGAL PRINCIPLES

It is well established that the finding of an unfair labor practice is presumptive proof that some backpay (or, as here, dues reimbursement) is owed. *Lorge School*, 355 NLRB 558, 560 (2010); *Laborers Local 158 (Worthy Bros.)*, 301 NLRB 35, 36 (1991), enfd. 952 F.2d 1393 (3d Cir. 1991). The Board has broad discretion in the formulation of backpay formulas to redress unfair labor practices. *Nathanson v. NLRB*, 344 U.S. 25, 29–30 (1952).

The Board's objective in compliance proceedings is to restore, to the extent feasible, the status quo ante by restructuring the circumstances that would have existed had there been no unfair labor practices. *Phelps Dodge Corp. v. NLRB*, 313 U.S. 177, 194 (1941). Backpay amounts often cannot be precisely determined from the available facts. Thus, the Board may adopt any formula which is reasonably designed to produce an approximation of what the discriminatee would have received absent the discrimination. *NLRB v. Brown & Root, Inc*., 311 F.2d 447, 452 (8th Cir. 1963); *Hacienda Hotel & Casino*, 279 NLRB 601, 603 (1986), citing *NLRB v. Carpenters Local* 180, 433 F.2d 934 (9th Cir. 1970). The Board has applied a broad standard of reasonableness in approving numerous methods of calculating gross backpay. *Performance Friction Corp*., 335 NLRB 1117, 1117 (2001).

Once the General Counsel meets its burden of showing the gross backpay owed, the burden shifts to the respondent to establish facts that negate or mitigate its liability. *St. George Warehouse*, 351 NLRB 961, 963 (2007); *Parts Depot, Inc*., 348 NLRB 152, 153 (2006), enfd. 260 Fed. Appx. 607 (4th Cir. 2008); *Atlantic Limousine, Inc*., 328 NLRB 257, 258 (1999), enfd 243 F.3d 711 (3d Cir. 2001). An administrative law judge need not recommend the General Counsel's gross backpay formula to the Board when a more accurate one is established in the record. *Frank Mascali Construction*, 289 NLRB 1155, 1157 (1988); *J. S. Alberici Construction Co*., 249 NLRB 751 fn. 3 (1980).

"Another well-established principle is that, where there are uncertainties or ambiguities, doubts should be resolved in favor of the wronged party rather than the wrongdoer." *Kansas Refined Helium Co*., 252 NLRB 1156, 1157 (1980) (enf'd. sub nom. Angle v. NLRB, 683 F.2d 1296 (10th Cir. 1982); see also *WHLI Radio*, 233 NLRB 326, 329 (1977). In *United Aircraft Corp*., 204 NLRB 1068 (1973), the Board stated that "the backpay claimant should receive the benefit of any doubt rather than the [r]espondent, the wrongdoer is responsible for the existence of any uncertainty and against whom any uncertainty must be resolved."

IV. UNIT EMPLOYEES ENTITLED TO REIMBURSEMENT

As noted above, the Board ordered the ILWU to reimburse "present and former unit employees who joined the Respondent Union on or since March 31, 2005, for any initiation fees, periodic dues, assessments, or any other moneys they may have paid or that may have been withheld from their pay pursuant to the PMA-ILWU Agreement . . ." The Board's order required the ILWU to cease and desist from "[m]aintaining and enforcing the PMA-ILWU Agreement, or

any extension, renewal, or modification thereof, including its union-security provisions, so as to cover the unit employees."

The Compliance Specification defines the affected employees as follows:

> Pursuant to the Board's Order, the affected unit employees who are entitled to reimbursement are all present and former unit employees who joined the Respondent Union on or since March 31, 2004. Unit employees are maintenance and repair mechanics employees who performed bargaining unit work at the APMT[8] terminals in Oakland, California (Oakland unit employees) and Tacoma, Washington (Tacoma unit employees) on a steady basis on or since March 31, 2005, and/or for sufficient time periods on or since March 31, 2005.

(GC Exh, 1(x).)

To calculate the amounts owed to employees, the Compliance Officer for Region 32, Paloma Loya reviewed data provided from various sources, including the PMA and the ILWU. Specifically, for Oakland she relied on the following documents provided by PMA: PCMC Mech. Reg. History (10112, 10114, 10130) (general registration and work records); PCMC Mech. Reg. History (10131) (general registration and work records); PCMC all shifts all dues by year (10112, 10114, 10130) (detailed daily work and dues records); PCMC all shifts all dues by year (10131) (detailed daily work and dues records); TAmidon Oakland (provided daily work record and location); and the Respondent's Answer for dues information. (Tr. 112; lines 1-12; GC Exh. 2; GC Exh. 1(z)(Exh. B)). For Tacoma, she relied on: PCMC Mech. Reg. History (30228); PCMC all shifts all dues by year (30228); TAmidon Tacoma (provided daily work record and location); and the Respondent's Answer Exhibit's F and B for dues information. (Tr. 113, lines 9-19; GC Exh. 2; GC Exh. 1(z)(Exh. F). When she found a discrepancy in the records, she erred on the side of the employee. After making some corrections that were pointed out at the hearing, she determined the amounts of reimbursement as set forth in appendices C–G of the Compliance Specification.

Compliance Officer Loya divided the employees covered by the Board's order into two categories: historical unit employees, and non-historical unit employees. She defined historical unit employees as any covered employee who had been employed by PMMC, and non-historical employees as anyone who performed unit work after PCMC took over operations on March 31, 2005. (Tr. 32.)

A. The Historical Unit Employees

Compliance Officer Loya determined the historical unit employees should be reimbursed for shifts worked at terminals covered by the bargaining agreement and shifts worked at non-covered terminals. There is no dispute that historical unit employees who were transferred away from the original bargaining-unit terminals to other ILWU-represented terminals continued to pay dues, fees, and assessments to the ILWU.

[8] The terminals at issue in Tacoma and Oakland were referred to as Maresk terminals until 2005, and APMT terminals after.

The General Counsel asserts the Compliance Officer's formula for reimbursing the historical unit employees is reasonable and consistent with the Board's order. The Charging Party does not dispute the Region's method for calculating historical unit employees' reimbursement.

The Respondent argues that including dues reimbursement for work performed at non-covered terminals is improper because the General Counsel may not remedy unfair labor practices PCMC committed. Specifically, the Respondent argues that because PCMC was found to have committed the unfair labor practice of assigning unit employees to nonunit positions and locations, PCMC alone should be responsible for remitting dues collected for periods of nonunit work. For the following reasons, I do not find this argument persuasive.

The ILWU's action of recognizing the historical employees adhered them to the lean staffing model under the PMA–ILWU Agreement, which included being dispatched to different worksites rather than remaining at fixed terminals performing unit work. The ILWU was ordered specifically to cease and desist from "[m]aintaining and enforcing the PMA-ILWU Agreement, or any extension, renewal, or modification thereof, including its union-security provisions, so as to cover the unit employees . . . ." It was by virtue of the ILWU's act of unlawfully recognizing these employees and maintaining the PMA–ILWU Agreement that it was able to collect dues and other assessments, wherever the historical unit employees were assigned under the lean staffing model. PCMC committed unfair labor practices by transferring the nonunit employees, but the ILWU continued to recognize these employees and collect dues from them. As the Board ordered joint and several liability, assessing these dues against the ILWU is appropriate.

The Respondent quotes *USPS*, 366 NLRB No. 168 (2018), to assert that "ILWU must *only* 'affirmatively remedy the unfair labor practices it has been found to have committed,' not those committed by another party." (R Br. 6, emphasis supplied.) Only the portion in internal quotes appears in the cited decision, which is part of an administrative law judge's analysis of whether deferral to the grievance procedure under *Alpha Beta*, 273 NLRB 1546 (1985), review denied 808 F.2d 1342, 1345–1346 (9th Cir. 1987), was appropriate. It does not state what the Respondent purports it to state, and has no relevance to the context here, particularly given the imposition of joint and several liability.

The Respondent cites to *Guerin, R.B*., 92 NLRB 1698, 1712 (1951), for the proposition that "the Board is empowered to find unfair labor practices and to issue a remedial order only against parties named in the complaint, and where no charge is filed and no complaint issued against another party, it is without power to issue an order against such other party." (R. Br. 6.) The ILWU was named in the compliant, and was found to have incurred joint and several liability, so this case is markedly off point.

The Respondent further cites to the dissent in an order in *McDonalds USA, LLC*, 363 NLRB No. 92 (2016) (dissent, Miscimarra), regarding whether an administrative law judge abused her discretion by issuing a case management order requiring the parties to litigate the issue of liability before presentation of evidence regarding any unfair labor practices. (R Br. 6–7.) Here, unfair labor practices were litigated and the Board determined the ILWU was jointly

and severally liable "for any initiation fees, periodic dues, assessments, or any other moneys they may have paid or that may have been withheld from their pay pursuant to the PMA-ILWU Agreement." This argument therefore also misses the mark, and in any event, a dissent from an order is not precedent.

The Respondent's proposed calculation formula for reimbursing historical unit employees does not approximate the circumstances that would have existed had there been no unfair labor practices. *Phelps Dodge Corp*., supra. Those circumstances were continuous employment performing unit work at fixed terminals. Based on the foregoing, I find the General Counsel's formula for calculating the historical unit employees' dues is reasonable and has not been successfully rebutted by the Respondent.

B. Non-Historical Unit Employees

Compliance Officer Loya determined that any non-historical employee who performed covered work for 30 days or more in a year was entitled to reimbursement under the Board's order. She only included reimbursement for unit work, because as employees who never worked for PMMC, they entered into employment willingly under the lean staffing model. She determined that 30 days/shifts of work was a reasonable minimum. She based this on information from the Charging Party that under the IAM's collective-bargaining agreement with PMMC, after 30 days of employment at PMMC, an employee was required to pay dues. (Tr. 38, 184.) Compliance Officer Loya used PMA records to determine the number of shifts each non-historical unit employee worked at one of the four original terminals where unit work was performed.[9]

For non-historical employees who worked at least one shift but fewer than 30, Compliance Officer Loya determined that their time spent doing unit work was de minimis, and outweighed by time performing non-unit work. She determined it was not reasonable, for example, to assess a month's worth of dues for someone who worked only one unit shift. As such, she determined dues reimbursement to those employees was more of a windfall than a make-whole remedy. Compliance Officer Loya declined to require that the 30-days be consecutive, or in clusters of any sort, and concluded the 30-shift minimum was sufficient to show the employees were entitled to reimbursement.

Once she determined an employee worked at least 30 shifts, Compliance Officer Loya calculated the amount of dues and other assessments owed to that employee. To determine the amounts of monthly dues owed, she reasoned that 20 shifts would equal a month. Because there was no evidence employees were permitted to pay dues on a prorated basis, any days worked beyond the 20 workdays were rounded up, and the employee was entitled to additional monthly dues reimbursement.[10] The General Counsel asserts that this is a reasonable calculation.

[9] The records reflect terminal codes 10112, 10114, 101130, and 10131 for Oakland and 30228 for Tacoma. (Tr. 51.)

[10] The formula is illustrated by the calculation of employee Jose Amador as follows:

> If he had worked at least 30 shifts that year I divided the number of shifts worked at the APMT terminals by 20, which is like 20 days in a month, because—and then that gives me like rounded up, like about how many months (sic) worth of dues he would have paid to ILWU for the period

The Respondent asserts that only employees who worked as "steady mechanics" are entitled to reimbursement. The Charging Party asserts that any employee who worked a single shift should be reimbursed, noting that under the PMA-ILWU agreement, an employee who works one day is a member of the bargaining unit, and is required to pay dues and/or a hiring hall fee.

The Respondent urges a calculation based on continuity of shifts rather than number of shifts. Based on the employees' daily work records, the Respondent determined employees who worked on a steady basis for 50 percent or more of a given month should be entitled to reimbursement. (R Exhs. 3, 8, 22.) This runs counter to the Board's order, which requires reimbursement for "all present and former unit employees for all initiation fees, dues, and other moneys paid by them or withheld from their wages pursuant to the PMA-ILWU Agreement, with interest." The Respondent contends the Compliance Specification itself supports its position, because it requires work on a steady basis and/or for sufficient time periods.[11] But, there is nothing unreasonable or erroneous about the General Counsel's position that 30 days is a sufficient time period to trigger reimbursement. As such, the Respondent's argument fails.

The Charging Party contends that any employee who worked at least one day should be reimbursed because, under the terms of the PMA–ILWU Agreement they were required to pay either membership dues or a hiring hall fee. Recourse for a charging party who disagrees with any aspect of the Regional Director's determination in a compliance specification is to file an appeal with the General Counsel in Washington, DC, and if the appeal is denied, request Board review. See Sec. 102.53 of the Boards Rules and Regulations; *Ace Beverage Co.*, 250 NLRB 646, 647 (1980). The purpose of the review process in Sec. 102.53 is to resolve disputes between the Charging Party and the General Counsel before the hearing. See *Mike-Sells Potato Chip Co*., 366 NLRB No. 29 (2018), enfd. 761 Fed. Appx. 5 (D.C. Cir. 2019). The Charging Party's argument in post-hearing brief therefore fails.

C. Date the Members Joined

The Respondent asserted in its answer that the inclusion of employees who joined the ILWU before March 31, 2005, is improper. (GC Exh. 1(z).) In Exhibit E of the Respondent's answer, Brent E. Leinum is identified as an employee who was a member of the bargaining-unit prior to Match 31, 2005. The records show that Leinum was a bargaining-unit member in 1997. He subsequently became inactive and re-joined after March 31, 2005. (R Exh. 1; GC Exh. 27; Tr. 93–94.)

> of time he spent working at that terminal. Jose Amador, specifically, started paying dues in December of 2012. So even though he worked June, July, August, September, October, November, and December, all of his shifts at a terminal; we only applied—we're only requesting reimbursement for December of 2012, that one month because that's the month that he started paying dues.
>
> (Tr. 54–55.)

[11] The use of "and/or" in the compliance specification means or "either or both of two stated possibilities." See Dictionary.com. There is no requirement that the work be both steady and for sufficient time periods. Moreover, the Board's order and Court's mandate do not impose such a requirement.

The Respondent does not argue in its closing brief that Leinum should be excluded based on his previous ILWU membership. The Board's order does not state that the employee must have joined the ILWU for the first time during the prescribed time period to be eligible. As the evidence shows Leinum re-joined the ILWU during the time period specified in the Board's order, and any uncertainties must favor the employee, I find Leinum's inclusion is proper.

V. THE REIMBURSEMENT PERIOD

To calculate the applicable reimbursement period, Compliance Officer Loya started with the Board's broad language, which included all present and former unit employees who had joined the ILWU on or since March 31st, 2005 and had paid dues under the PMA–ILWU contract. She then gleaned from the records that the employees did not start paying dues to the ILWU until they became B class members. In Oakland, this occurred in September 2005, and in Tacoma it occurred in July of 2005. The end period was determined by when the Employer ceased doing the maintenance and repair work at these terminals. In Oakland this occurred at the end of June 2013, and in Tacoma in November 2016.

A. Tolling Between ALJ Decision and Board Reversal

The Respondent argues its liability should be tolled from February 19, 2009, when the administrative law judge recommended dismissal of the complaint allegations against the ILWU, until the Board's reversal on June 17, 2015. During this period spanning over six years, the Respondent points out the employees received representation from the ILWU and benefitted in a variety of ways from the PMA-ILWU Agreement.

The Board's order, enforced by the Court of Appeals, does not exclude the time period between the ALJ decision and the Board's reversal of that decision. Under Section 10(e) of the Act, the Board may not modify an order the Court of Appeals has enforced, because the Court's judgement and decree is reviewable only by the Supreme Court.[12] *Grinnell Fire Protection Systems Co*., 337 NLRB 141, 142 (2001) (Board has no jurisdiction to modify a court-enforced order); *Regional Import & Export Trucking*, 323 NLRB 1206, 1207 (1997) (same); *Haddon House Food Products*, 260 NLRB 1060 (1982) (same). I therefore cannot change the Board's previously enforced order, much less carve out a period of six years from the Respondent's reimbursement obligations. The Respondent's tolling argument therefore fails.[13]

[12] I note that the Respondent argued before the D.C. Circuit that the time period between the ALJ decision and the Board's reversal should be tolled, yet the Court's Mandate did not provide for such tolling. See Petitioner's Opening Brief to Court of Appeals at pp. 59–60, November 2, 2017.

[13] I would come to the same conclusion if I considered the argument on the merits. See *A.P.W. Products Co*., 137 NLRB 25, 28–31 (1962), enfd. 316 F.2d 899 (2d Cir. 1963) (Board held with respect to such tolling that "its real thrust is in the direction of benefiting the wrongdoer at the expense of the wronged—a result antithetical to the fundamental aim of the Board's remedial authority and powers."); See also *NLRB v. J. H. Rutter-Rex Mfg. Co*., 396 U.S. 258, 262-265 (1969).

B. November 2016 Tacoma

The Respondent asserts that no dues should be reimbursed for Tacoma employees for the month of November because all unit worked ceased on November 4, 2016. Compliance Officer Loya reviewed the TAmidon Tacoma daily work records, which showed historical unit employee Herbert Ahlgren worked 19 shifts in November as an "ILWU Mech Journeyman." (GC Exh. 7.) She determined that, under the Respondent's proposed time period ending November 4, Ahlgren would not be compensated for time periods during which he worked and paid dues as a journeyman mechanic. While the Respondent asserts no employee worked for PCMC as a mechanic past November 4, I have found the formula for reimbursing historical unit employees for all work to be reasonable, as detailed above. For this reason, I find the Respondent has not met its burden to prove the records the Compliance Officer relied on were inaccurate or that there were conflicting work records.

VI. OTHER OFFSETS

A. Dues, Fees, Assessments, and Fines

The parties stipulated that the dues, fees, assessments, and fines set forth in Exhibits C and H to the Respondent's answer to the Compliance Specification accurately reflect the dues, fees, assessments, and fines the named individuals paid for the months reflected. (Tr.100). The Respondent contends that, in the Compliance Specification, "there appear to be inconsistencies in the total amounts for reimbursement, which may indicate the General Counsel did not fully adopt the ILWU's payment information." (R Br. 20.)

The Respondent specified neither the employees nor the amounts for reimbursement it deemed inaccurate.[14] Under these circumstances, I cannot conclude the General Counsel's calculations are unreasonable or arbitrary. See *Hubert Distributors, Inc*., 344 NLRB 339, 344 (2005).

B. Initiation Fees

Compliance Officer Loya included reimbursement of initiation fees for employees who she determined were entitled to reimbursement regardless of whether the employees performed unit work during the time period when the initiation fee was assessed. (Tr. 164.) The General Counsel contends this inclusion is correct, as the initiation fees at issue were paid during the Board's reimbursement period. The Respondent contends that initiation fees not incurred during periods of time the employees were performing work at an APMT terminal are not reimbursable.

[14] The Respondent's brief does not address employees for whom there are no dues payment records, and the stipulations regarding the accuracy of Exhibits C and H to the Respondent's answer are limited to the employees specifically referenced therein. To the extent the Respondent asserts that employees for whom it did not keep records of dues and other payments are not entitled to reimbursement, this argument is unavailing. It is undisputed that to work under the PMA-ILWU agreement, the employees were required to be dues-paying ILWU members. (R Exhs. 9–11.) Accordingly, Compliance Officer Loya's assumption that these employees paid dues directly to the ILWU when they worked under the PMA-ILWU agreement is reasonable. (Tr. 64–65, 71, 79.)

To perform the work generating the dues reimbursement, the employees were required to pay the initiation fee. Even though an employee may have performed non-unit work during the time period in and around the initiation fee assessment, paying the initiation fee was a condition precedent to performing the included work. Given the Board's order to "reimburse all present and former unit employees who joined the Respondent Union on or since March 31, 2005, for *any* initiation fees," I find the General Counsel's inclusion of these fees is reasonable and consistent with the Board's order. (Emphasis supplied)

C. The Settlement Agreements

1. The PCMC/PMMC agreement

In 2016, Charging Party IAM and the Employer entered into a $10.5 million settlement agreement to resolve IAM's claims against the Employer. The agreement states, in pertinent part:

> The settlement payment will be allocated to such payees as the Machinists may designate, provided that the payees have a good faith claim of loss as determined by the Machinists. Examples of such potential payees include, but are not necessarily limited to, Machinist benefit funds and laid-off employees of PMMC. The payees shall be solely responsible for taxes, if any, due on account of payments made to them. *The loss specifically does not include any claim for union dues which were paid to the International Longshore and Warehouse Union*, but the released parties are relieved of any responsibility to reimburse such dues.

(R Exh. 14, emphasis supplied.) The PCMC/PMMC Agreement also released the employers from all claims for withdrawal liability under contract or under Title IV of the Employee Retirement Income Security Act of 1974 (ERISA).

2. The Ports America Outer Harbor (PAOH) agreement

Another $3 million settlement was reached in August 2016, between the IAM and the employers operating in the original bargaining unit terminals in Oakland (Ports America Group, Inc., Outer Harbor Terminal LLC, MTC Holdings, and Marine Terminals Corp.). (R. Exh. 16). That settlement agreement states in pertinent part:

> The settlement payment will be allocated to such payees as the Machinists may designate, provided that the payees have a good faith claim of loss. It is further provided that no part of the Settlement Amount shall be utilized to satisfy any claim for dues which may ultimately (sic) found to have been unlawfully paid to the ILWU and the Settlement Amount does not include reimbursement for any dues paid to ILWU or which was not paid to the Machinists. The settlement agreement does however relieve OHT, MTC-H and MTC of any responsibility to reimburse such dues. The $3 Million shall be the total amount payable by Companies. The recipients of the money shall be solely responsible for taxes, if any, due because of the receipt of said money.

(R Exh. 16.) The PAOH Agreement also released the employers from all claims for withdrawal liability under contract or under Title IV of ERISA.

3. The General Counsel and Charging Party's positions

The General Counsel and the Charging Party assert that the payments to employees under these settlement agreements were for lost wages and benefits, and did not include any reimbursement of the dues and other monies paid to the ILWU.

The General Counsel and Charging Party assert that no money was paid to employees to reimburse them for dues or other fees associated with their ILWU membership, and therefore no offset is appropriate. With regard to the PCMC/PMMC Agreement, IAM's Assistant Director Don Crosatto and Directing Business Representative Daniel Morgan said that none of the settlement money was allocated to reimburse employee for dues and other fees paid to the ILWU. (Tr. 284, 295.) Oakland received approximately 35 percent of the gross settlement amount, with the remainder to Tacoma. Approximately $1.7 million went to the IAM Trust Pension Fund. (Tr. 243, 252; R. Exh. 15.)[15]

According to Crosatto, the money allocated to the employees was less than make-whole relief. In making his calculations to distribute the settlement money, Crosatto based all hourly economic losses on the wage rate that existed in 2004 under the IAM's collective-bargaining agreement for the full reimbursement period of 2005 to 2013, even though he is certain there were subsequent wage increases. Vacation reimbursement was also calculated at the static 2004 wage rate. (Tr. 264–265, 269–270.) In addition, the calculations did not account for various types of overtime or other premium pay the employees earned under the IAM's collective-bargaining agreement because making these calculations would have been impossible. (Tr. 235–238.) Finally, he did not account for the wage differences between the tiered wage structure of the ILWU's collective-bargaining agreement and the IAM agreement, which required the employee to take a pay cut until they reached A status. (Tr. 283.)

Crosatto allocated payment based on the time the employee had in the PCMC bargaining-unit, because those who were there the longest had the greatest losses. Based on the remaining available settlement proceeds, the number of eligible employees (40), and the number of months (100), that the employees performed work in the PCMC bargaining unit, each employee received $460 for every month he or she worked in the PCMC unit. Some employees who had been on disability status and then went into retirement received a smaller payout of around $2,767. (Tr. 253–254; R. Exh. 15.)

The IAM pension fund was not fully compensated for the loss of investment resulting from the unfair labor practices. A lump sum of $840,000 was allocated to the trust to "offset for unfunded liability that would have been due" under the collective-bargaining agreement and was "not for individual credit to the members." (Tr. 294.) There was no compensation or credit to employees in any other part of the settlement agreement to make up for the fact that they were

[15] Respondent's exhibits 15, 16–19 were received under seal. Accordingly, while this decision refers to and considers the precise calculations in these exhibits, their specific terms are not discussed.

not getting pension credits. (Tr. 295.) Employees also were not compensated for annuities they lost out on as a result of the unfair labor practices.[16]

The settlement agreement explicitly excluded tax payments for any adverse tax consequences resulting from the payment of a lump sum to each employee. (R. Exh. 14). Finally certain out-of-pocket expenses were not reimbursed under the settlement agreement. (Tr. 266.)

As to the PAOH Agreement, Crosatto believed the settlement fell severely short of the real losses incurred by the employees as the employers were credibly threatening bankruptcy. Crosatto testified, "the damages both in terms of lost wages and benefits certainly the damages to the trust funds were a lot greater than the amounts we settled for." (Tr. 277; R. Exh. 17.)

4. The Respondent's position

The Respondent contends that full reimbursement of dues and other fees paid to the ILWU would result in a windfall for the employees and be punitive. The Respondent, using Social Security records and information provided by the Charging Party, calculated gross backpay and non-wage losses incurred as a result of PMMC's unfair labor practices.

The Respondent describes the process it used to determine backpay and what it asserts should be offsets:

> In calculating gross backpay, ILWU has adopted calculations from the Charging Party regarding non-wage losses incurred as a result of the unfair labor practices found against PCMC (annuity [IARP], vacation pay, holiday pay) and estimated costs using information from the Charging Party where the Charging Party did not provide specific calculations (Tacoma pension, average per year annuity (IARP), average per year vacation pay, average per year holiday pay). Because the individuals had health coverage under both the PMMC-IAM Agreement and PMA-ILWU Agreement and because the Charging Party did not provide any specific information about additional medical costs associated with coverage under the PMA-ILWU Agreement and did not assert any such loss, ILWU assumed that loss of health coverage under the PMMC-IAM Agreement was fully offset by health coverage provided under the PMA-ILWU Agreement. This is especially the case given that the PMA-ILWU Agreement provides full retiree medical c overage, and the PMMC-IAM Agreement does not provide any retiree-medical coverage. Tr. 286 (Crosatto), Ex. R-13.
>
> In calculating wages for gross backpay, ILWU has looked to the Social Security Administration ("SSA") Itemized Statements of Earnings provided by the Compliance

[16] Under the then-existing Machinists' collective-bargaining agreement, employees were entitled to a supplemental $2,146.17, from which $700 was allocated to the pension fund, and another portion allocated to cover health and welfare costs, and the remainder, at that time in 2004, about $600 went to the "trustee directed 401k plan" for the employees' direct benefit. (Tr. 254–255; R. Exh. 13.) For employees who worked the entirety of 2005 to 2013, Crosatto calculated a loss of about $560 a month in pension benefits for the rest of their lives. (Tr. 281.)

> Officer during the hearing listing individual earnings in 2004 or earlier if 2004 earnings appeared to be unusually low and, where no individual data was collected by the Compliance Officer, the ILWU used averages per year to estimate individual earnings in 2004. See Exs. R-4, R-5. This assumption likely over-estimated gross backpay because if the unfair labor practices found in this case had not occurred, the Charging Party would have negotiated economic concessions in order to avoid layoffs. See PCMC, 359 NLRB at 1210 (2013) ("Thus, the Respondent Employer could have bargained with the Machinists over the transfer of the unit employees to PCMC without an intervening layoff and loss of seniority. Alternatively, it could have maintained the unit employees' terms and conditions while it negotiated with the Machinists over cost saving concessions."); Tr. 270 (Mr. Crosatto explaining that the Charging Party did not ever "consider[] or contemplate[]" transferring the unit of employees to PCMC, with ILWU representation); see also CHM § 10542.5 ("If the gross employer's operations or employee complement were reduced during the backpay period, it may be that the discriminatee would have lost employment and earnings even if there had been no unlawful action."). The ILWU calculated interim earnings using the same SSA statement reports obtained by the Compliance Officer and likewise calculated averages by year for individuals for whom the Compliance Officer had not obtained reports.
>
> Using this information, ILWU calculated net backpay for each individual listed in the Second Amended Compliance Specification who received payments under the PCMC and PAOH settlements. ILWU then compared the net backpay for each individual to the reimbursement amount for that individual to determine whether the individuals were fully compensated for all economic losses by the settlement payments they received and, if so, whether they received any money in excess of their net backpay. If they received money in excess of their net backpay, ILWU offset those excess amounts from the amount of money the General Counsel is seeking ILWU reimburse for back dues, fees, fines, and assessments.

(R Br. 26–27.) The Respondent then performed specific calculations for the employees for both the Oakland and Tacoma locations using a variety of criteria and calculation methods, and making certain assumptions. (R Br. 30–39, Appx. A–F.)

5. Legal principles and analysis

In *Urban Laboratories, Inc*., 305 NLRB 987, 987–988 (1991), the Board cited to *Zenith Radio Corp. v. Hazeltine Research*, 401 U.S. 321, 342–348 (1971), and adopted to so-called "modern rule" holding that "a release of one joint tortfeasor does not release the other joint tortfeasor unless that is the intention of the parties." The settlement agreement at issue in *Urban Laboratories* expressly provided that settlement with one of the respondents, Mr. Combs, did not affect the potential liability of the other respondents. Applying the modern rule, the Board found that approval of the partial settlement with Mr. Combs did not extinguish the claims against the remaining respondents. See also *Regional Import and Export Trucking Co*., 323 NLRB 1206, 1207 (1997)(Union could not use arbitration award it helped obtain against employer to reduce its liability for its unlawful conduct).

Here, the settlement agreements at issue likewise did not release the ILWU from liability, expressly or otherwise. Quite the opposite: They expressly agreed that the settlement agreements did not include reimbursement for union dues. The question that remains is whether the ILWU is entitled to an offset.

Under the plain terms of both settlement agreements, the money is restricted to remedy losses due to the employers' actions of laying off employees and ceasing payment into pension and benefit funds. Under the plain terms of both settlement agreements, the money is not to be used for reimbursement of union dues and fees. I find the disbursements, detailed in Crosatto's testimony and set forth in the documentary evidence, persuasive evidence that the employees did not receive a windfall. (R Exhs. 15, 17–19.) Accordingly, I do not find any employee's dues reimbursement should be offset by the money the employers tendered pursuant to settling their claims for lost wages and benefits.

The Respondent essentially seeks to litigate the amount of backpay the Employer owes to the employees for wages and other benefits. No backpay specification is before me as I am not adjudicating the amount of backpay the Employer owes any employee. These claims were settled, presumably to avoid litigating the precise amount of backpay owed.

The process for calculating backpay is a time-consuming, tedious, and difficult exercise. The NLRB Casehandling Manual (Part Three) Compliance (CHM), outlines detailed and lengthy procedures for determining backpay. CHM, §§ 10536–10568. The product of this process, a backpay specification, can generate much dispute. Litigation of the backpay specification is often as time-consuming, tedious, and difficult as the process that created it. I find the Respondent's attempts to show the settlement agreements overcompensate the employees for the backpay and benefits owed them by the Employer fall short, and they do not effectively rebut the General Counsel and Charging Party's evidence that the disbursements excluded union dues owed by the Respondent.[17]

VII. OPT-IN/OPT-OUT

Finally, the Respondent argues that special circumstances warrant imposing a requirement on the employees to opt in or opt out of reimbursement of their dues, fees, fines, and assessments. I can find no authority to impose a requirement for employees to opt in to receive their make-whole remedy, or to permit them to opt out. It is easy to understand why there are not opt-in/opt-out options in the Board's orders directing a make-whole remedy. The remedial aim of a Board order is restoration of the situation, as nearly as possible, to that which would have existed but for the unfair labor practice or practices. *Phelps Dodge Corp*, supra. The Board orders employers and/or unions to make the employees whole; It does not put to onus on the employee to ask employers or unions to make them whole, or to make the choice as to whether to receive the make-whole relief.

[17] This is particularly true considering the Charging Party's calculations froze wages at the 2004 rate. See *Churchill's Supermarkets*, 301 NLRB 722, 723 (1991) (Appropriate to factor wage increases into backpay calculations).

VIII. CONCLUSION

On these finding of fact and conclusions of law and on the entire record, I issue the following recommended

SUPPLEMENTAL ORDER

It is hereby ordered that Respondent International Longshore and Warehouse Union, and its officers, agents, successors and assigns, satisfy the obligation to make whole the following employees and former employees by paying them the following amounts (which totals $1,697,541.81), plus interest accrued to the date of payment as prescribed in *New Horizons*, 283 NLRB 1173 (1987), and *Kentucky River Medical Center*, 356 NLRB 6 (2010):

Employee Name	**Grand Total**
Alvarez, Manuel C	21,300.96
Amador, Jose	605.10
Ayala, Nelson A	22,970.84
Baldwin, John P	23,158.24
Bell, David B	4,178.80
Bennesen, Neil K	12,846.48
Boardman, David E	13,964.33
Byers, Nordan A	2,773.95
Castanho, Dominic J	605.10
Castillo, Randall J	15,318.30
Ceccarelli, Matthew C	302.55
Cheung, Jayson T	7,014.10
Costa, John L	22,408.24
da Silva, Stephen M	5,575.25
Dake, Kevin J	2,823.80
De Leon, Walter E	504.25
Dela Cruz, Isabelo O	23,358.24
Dimassimo, James J	1,411.90
Fairfield, Joe A	605.10
Gonzalez, Juan	1,890.00
Gonzalez, Juan B	1,890.00
Gouveia, Brian D	3,240.50
Grimsley, Charles F	22,310.92
Guevara, Juan M	22,055.84
Guevara, Robert	605.10
Haag, Kenneth P	2,017.00
Hernandez, Arthur V	22,307.36
Horton, George H	5,993.70
Juarez, Ruben	21,855.84
Kun, Brian M	605.10

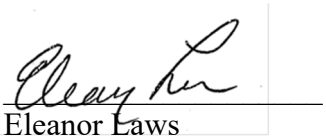
Lau, Jack C	6,136.20
Le, Nhanh H	4,941.10
Letcher, Ron P	22,214.08
Lincoln, Charles F	2,695.80
Logie, Scott C	2,823.80
MacKenzie, Scott J	6,605.40
Martin, Robert J	21,012.69
Martin, Robert J, Jr.	1,919.60
Martinez, Anthony D	7,156.50
Maynard, Bryan R	2,624.40
McLeod, John N	2,823.80
McClean, John F	23,898.24
McIntosh, Glen T	21,855.84
Orellana, Alfredo E	21,855.84
Padilla, Hector A	23,848.24
Paredes, Francisco J	19,136.69
Parker, Howard L	5,035.70
Payne, Bobby R	22,960.94
Philpott, Doug E	22,792.74
Piazza, Michael E	2,374.00
Pierce, Glen A	23,083.24
Punla, Kenneth V	17,036.29
Quijano, Luis A	22,705.84
Robles, Jose G	21,905.84
Robles, Jose L	1,815.30
Rodrigues, Gary D	1,008.50
Rohse, Gordon A	19,350.38
Sensabaugh, Thomas E	605.10
West, Clinton E	5,823.99
White, David S	1,815.30
Willis, Milton G	23,258.24
Wright, John C	2,823.80
Ahlgren, Herbert M	27,520.00
Anderson, Harvey R	24,510.65
Ashmore, William S	1,349.75
Barczak, Joseph J	26,082.15
Been, Nathan B	2,189.45
Bock, Eric H	279.90
Butchart, Randall J	24,095.45
Cable, Ralph W	949.75
Chaney, Arch A	886.70
Coles, Gregory D	19,622.70
Conde, Oscar J	24,396.65
Coudriet, Harry J	24,377.55
Coudriet, Wayne L	26,223.55

Davidson, Dan J	9,599.25
DeSerisy, Floyd J	4,677.75
Douglas, William J	26,090.95
Finn, Terence	27,043.05
Fulton, Jim W	34,669.65
Gagne, Steven J	26,121.65
Gallian, Dale A	25,458.50
Gorham, Dana V	15,618.50
Guyton, Michael M	23,794.55
Harding, Kirchie D	2,469.35
Hawkins, Glen D	3,110.80
Hoffman, Terry D	28,257.70
Hooper, William P	25,178.65
Hughley, Calvin	28,303.70
Jennings, Danna I	17,575.65
Karlin, Jonathan F	17,653.90
King, Jeffrey L	24,650.60
Lacher, Ralph	28,756.00
Leinum, Brent E	3,478.95
Lenzen, Marty D	1,069.85
Locke, Ella M	5,675.20
Logan, John R	5,005.35
Lucero, Ernest D	26,243.05
Manson, Jared H	529.90
Massier, Sean M	389.95
May, Merl M	669.85
McCarty, Dale W	9,147.60
Messner, James Ellis	1,620.40
Moore, Michael S	1,069.85
Nelson, Douglas A	27,167.40
Newman, Richard L	16,593.50
Oades, Eugene K	24,790.55
OBrien, Kenneth V	650.00
Otto, Chris R	24,910.15
Pachal, Richard M	26,270.35
Paulson, Tom C	949.75
Perrine, Matthew N	2,699.05
Phonesaithip, Norkhou	28,410.25
Stevenson, Brandon	529.90
Suchan, David D	27,754.30
Swanson, Mark J	4,549.35
Taylor, Kent C	28,544.60
Theoharis, Jacob N	669.85
Thompson, Rex A	10,490.55
Thongvanh, Bryan K	34,795.60

Thornbrugh, Claude A	8,848.70
Tucker, Mario P	4,532.70
Upshaw, Andrew J	1,489.70
Walters, Clarence	28,081.90
Westhead, John J	3,309.05
Wilcher, William A	20,958.40
Willecke, Richard A	29,873.75
Williams, Glenn P	8,795.95
Wilper, Michael C	9,623.05
Worrell, Darwin W	24,262.05

Total
$1, 697,541.81

Dated, Washington, D.C. July 9, 2020



Eleanor Laws
Administrative Law Judge